

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 4:05CR00329 HEA (AGF)
	)	
TERRANCE BETHEA,	)	
	)	
Defendant.	)	

**ORDER REGARDING MENTAL COMPETENCY**

This matter came before the Court for a hearing on Defendant's mental competency pursuant to 18 U.S.C. § 4241(d) and (e). Issues regarding Defendant's mental competency were first raised in a motion by Defendant for a mental examination. Defendant was thereafter evaluated both at a federal facility, and then privately. Following a further hearing it was determined that Defendant was then suffering from a mental disease or defect rendering him incompetent to stand trial, and Defendant was committed under 18 U.S.C. § 4241(d) to a suitable facility, for a period not to exceed four months, to determine whether there was a substantial probability that, in the foreseeable future, Defendant would attain the capacity to permit the trial to proceed. (Doc. #36). Further details regarding Defendant's commitment and court proceedings are contained in this Court's Order of May 11, 2006, directing that Defendant be forcibly medicated. (Doc. #48). The time period for restoration was thereafter extended. (Doc. #51).

In connection with the restoration efforts, Defendant was committed to the U.S. Medical Center at Springfield, Missouri, where he received medical treatment, including medication for schizophrenia. On January 31, 2007, J.E. Gunja, the Warden at the Medical Center, issued a Certificate of Competency, pursuant to 18 U.S.C. § 4241(e), certifying that Defendant Bethea “has recovered to such an extent that he is able to understand the nature and consequences of the proceedings against him and to assist properly in the defense of the claims brought against him” in this case. (Doc. #52, filed under seal). Attached to the Certificate is a Forensic Psychological Report (the “Medical Report”), dated January 5, 2007, signed by Lea Ann Preston, Ph.D., Clinical Psychologist.

On February 14, 2007, a hearing was held pursuant to 18 U.S.C. § 4247(d) and (e). Defendant was present and represented by his attorney, Assistant Federal Public Defender Thomas F. Flynn. The government was represented by Assistant United States Attorney Jennifer J. Roy. Both parties had received and reviewed the Certificate of Competency and copies of the Medical Report. Neither party had any objections to the conclusion in the Medical Report regarding Defendant’s competency, and neither party believed there was a need for any further testing regarding Defendant’s competency. Having reviewed the Certificate of Competency and the Medical Report of Dr. Preston, in which she concludes that Defendant is able to understand and appreciate the nature and consequences of the proceeding and to assist properly in his own defense, and having had the opportunity to observe Defendant and discuss the proceedings with him,

The undersigned hereby finds, by a preponderance of the evidence, pursuant to 18 U.S.C. §§ 4241(d) and (e), that Defendant has recovered to such an extent that he is able to understand the nature and consequences of the proceedings against him and to assist properly in his own defense.

**IT IS THEREFORE ORDERED** that the stay previously entered in this cause is lifted.

**IT IS FURTHER ORDERED**, based on Defendant's oral motion that he be permitted to obtain a further examination of Defendant's sanity at the time of the offense, that the Court shall hold a hearing on **Wednesday, February 21, 2007, at 9:00 a.m.** At that time Defendant shall provide to the Court an estimate of the time needed for such an examination, and the Court will set a schedule for further court proceedings in the case.

  
AUDREY G. FLEISSIG  
United States Magistrate Judge

Dated this 14th day of February, 2007.